

ASSEMBLY BILL

No. 319

Introduced by Assembly Member Niello

February 18, 2009

An act to amend Sections 336, 342, 9001, 9002, 9003, 9004, 9005, 9007, 9008, 9034, 9035, 9050, 9051, 9052, 9053, 9054, 9063, 9086, 13247, 13262, 13281, 13282, and 18602 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 319, as introduced, Niello. Elections: ballot titles.

Existing law requires the Attorney General, upon receipt of a draft of a petition for a proposed initiative or referendum, to prepare a title and summary of the proposed measure. Under existing law, the Attorney General is required to determine the effect of a proposed initiative measure on revenues and expenditures of the state or local government. If the Attorney General determines that a proposed measure would affect state or local revenues or expenditures, he or she must include in the title either the estimate of the amount of change in state or local revenues or costs or an opinion as to whether a substantial net change in state or local finances would result if the proposed initiative is adopted. Existing law requires the Department of Finance and the Joint Legislative Budget Committee to prepare jointly the fiscal estimate that is included in the title.

This bill would require the Legislative Analyst, instead of the Attorney General, to prepare the ballot title and summary for all measures submitted to the voters of the state and would require the Legislative Analyst, instead of the Department of Finance and the Joint Legislative

Budget Committee, to prepare any fiscal estimate or opinion required by a proposed initiative measure.

The bill would make its operation contingent upon the approval by the voters of an unspecified amendment to the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 336 of the Elections Code is amended to
2 read:

3 336. The “official summary date” is the date a summary of a
4 proposed initiative measure is delivered or mailed by the ~~Attorney~~
5 ~~General~~ *Legislative Analyst* to the proponents for a proposed
6 initiative measure. The ~~Attorney General~~ *Legislative Analyst* shall
7 immediately notify the Secretary of State of that date and send the
8 Secretary of State a copy of the summary. The Secretary of State
9 immediately shall notify the proponents and county elections
10 official of each county of the official summary date and mail a
11 copy of the summary to each county elections official. This
12 notification shall also include a complete schedule showing the
13 maximum filing deadline, and the certification deadline by the
14 counties to the Secretary of State.

15 No petitions for a proposed initiative measure shall be circulated
16 for signatures prior to the official summary date. Petitions with
17 signatures on a proposed initiative measure shall be filed with the
18 county elections official not later than 150 days from the official
19 summary date, and no county elections official shall accept
20 petitions on the proposed initiative measure after that period.

21 SEC. 2. Section 342 of the Elections Code is amended to read:

22 342. “Proponent or proponents of an initiative or referendum
23 measure” means, for statewide initiative and referendum measures,
24 the person or persons who submit a draft of a petition proposing
25 the measure to the ~~Attorney General~~ *Legislative Analyst* with a
26 request that he or she prepare a title and summary of the chief
27 purpose and points of the proposed measure; or for other initiative
28 and referendum measures, the person or persons who publish a
29 notice or intention to circulate petitions, or, ~~where~~ *if* publication
30 is not required, who file petitions with the elections official or
31 legislative body.

1 SEC. 3. Section 9001 of the Elections Code is amended to read:
2 9001. The heading of a proposed initiative measure shall be in
3 substantially the following form:

4 Initiative Measure to Be Submitted Directly to the Voters

5 ~~The Attorney General~~ *Legislative Analyst* of California has
6 prepared the following title and summary of the chief purpose and
7 points of the proposed measure:

8 (Here set forth the title and summary prepared by the ~~Attorney~~
9 ~~General~~ *Legislative Analyst*. This title and summary must also be
10 printed across the top of each page of the petition whereon
11 signatures are to appear.)

12 To the Honorable Secretary of State of California
13

14 We, the undersigned, registered, qualified voters of California,
15 residents of ____ County (or City and County), hereby propose
16 amendments to the Constitution of California (the ____ Code,
17 relating to ____) and petition the Secretary of State to submit the
18 same to the voters of California for their adoption or rejection at
19 the next succeeding general election or at any special statewide
20 election held prior to that general election or otherwise provided
21 by law. The proposed constitutional (or statutory) amendments
22 (full title and text of the measure) read as follows:

23 SEC. 4. Section 9002 of the Elections Code is amended to read:

24 9002. Prior to the circulation of ~~any~~ *an* initiative or referendum
25 petition for signatures, a draft of the proposed measure shall be
26 submitted to the ~~Attorney General~~ *Legislative Analyst* with a
27 written request that a title and summary of the chief purpose and
28 points of the proposed measure be prepared. The title and summary
29 shall not exceed a total of 100 words.

30 The persons presenting the request shall be known as the
31 “proponents.”

32 ~~The Attorney General~~ *Legislative Analyst* shall preserve the
33 written request until after the next general election.

34 SEC. 5. Section 9003 of the Elections Code is amended to read:

35 9003. ~~In the event that If~~ the ~~Attorney General~~ *Legislative*
36 *Analyst* is a proponent of a proposed measure, the title and
37 summary of the chief purpose and points of the proposed measure,
38 including an estimate or opinion on the financial impact of the
39 measure, shall be prepared by the Legislative Counsel, and the
40 other duties of the ~~Attorney General~~ *Legislative Analyst* specified

1 in this chapter with respect to the title and summary and an estimate
2 of the financial effect of the measure shall be performed by the
3 Legislative Counsel.

4 SEC. 6. Section 9004 of the Elections Code is amended to read:

5 9004. (a) Upon receipt of a draft of a petition, the ~~Attorney~~
6 ~~General~~ *Legislative Analyst* shall prepare a summary of the chief
7 purposes and points of the proposed measure. The summary shall
8 be prepared in the manner provided for the preparation of ballot
9 titles in Article 5 (commencing with Section 9050), the provisions
10 of which in regard to the preparation, filing, and settlement of titles
11 and summaries are hereby made applicable to the summary. The
12 ~~Attorney General~~ *Legislative Analyst* shall provide a copy of the
13 title and summary to the Secretary of State within 15 days after
14 receipt of the final version of a proposed initiative measure, or if
15 a fiscal estimate or opinion is to be included, within 15 days after
16 receipt of the ~~determining a~~ fiscal estimate or opinion prepared by
17 the ~~Department of Finance and the Joint Legislative Budget~~
18 ~~Committee~~ *is required* pursuant to Section 9005.

19 (b) If during the 15-day period, the proponents of the proposed
20 initiative measure submit amendments, other than technical,
21 nonsubstantive amendments, to the final version of the measure,
22 the ~~Attorney General~~ *Legislative Analyst* shall provide a copy of
23 the title and summary to the Secretary of State within 15 days after
24 receipt of the amendments.

25 (c) The proponents of ~~any~~ *an* initiative measure, at the time of
26 submitting the draft of the measure to the ~~Attorney General~~
27 *Legislative Analyst*, shall pay a fee of two hundred dollars (\$200),
28 which shall be placed in a trust fund in the office of the Treasurer
29 and refunded to the proponents if the measure qualifies for the
30 ballot within two years from the date the summary is furnished to
31 the proponents. If the measure does not qualify within that period,
32 the fee shall be immediately paid into the General Fund of the
33 state.

34 SEC. 7. Section 9005 of the Elections Code is amended to read:

35 9005. (a) Notwithstanding Section 9004, the ~~Attorney General~~
36 *Legislative Analyst*, in preparing a title or summary for an initiative
37 measure, shall determine whether the substance thereof if adopted
38 would affect the revenues or expenditures of the state or local
39 government, and if he or she determines that it would, he or she
40 shall include in the title either the estimate of the amount of any

1 increase or decrease in revenues or costs to the state or local
2 government, or an opinion as to whether or not a substantial net
3 change in state or local finances would result if the proposed
4 initiative is adopted. *The Legislative Analyst may request the*
5 *assistance of any state department, agency, or official in preparing*
6 *the estimate required by this subdivision.*

7 ~~The estimates as required by this section shall be made jointly~~
8 ~~by the Department of Finance and the Joint Legislative Budget~~
9 ~~Committee, who shall deliver them to the Attorney General so that~~
10 ~~he or she may include them in the titles prepared by him or her.~~

11 (b) ~~The estimate shall be delivered to completed by the Attorney~~
12 ~~General Legislative Analyst within 25 working 15 days from the~~
13 ~~date of receipt of the final version of the proposed initiative from~~
14 ~~the Attorney General determining that the estimate is required,~~
15 ~~unless in the opinion of both the Department of Finance and the~~
16 ~~Joint Legislative Budget Committee Analyst a reasonable estimate~~
17 ~~of the net impact of the proposed initiative cannot be prepared~~
18 ~~within the 25-day 15-day period. In the latter case, the Department~~
19 ~~of Finance and the Joint Legislative Budget Committee Analyst~~
20 ~~shall, within the 25-day 15-day period, give the Attorney General~~
21 ~~their his or her opinion as to whether or not a substantial net change~~
22 ~~in state or local finances would result if the proposed initiative is~~
23 ~~adopted.~~

24 ~~Any statement of fiscal impact prepared by the Legislative~~
25 ~~Analyst pursuant to subdivision (b) of Section 12172 of the~~
26 ~~Government Code may be used by the Department of Finance and~~
27 ~~the Joint Legislative Budget Committee in the preparation of the~~
28 ~~fiscal estimate or the opinion.~~

29 SEC. 8. Section 9007 of the Elections Code is amended to read:

30 9007. Immediately upon the preparation of the summary of an
31 initiative or referendum petition, the ~~Attorney General~~ *Legislative*
32 *Analyst* shall forthwith transmit copies of the text of the measure
33 and summary to the Senate and Assembly. The appropriate
34 committees of each house may hold public hearings on the subject
35 of the measure. However, nothing in this section shall be construed
36 as authority for the Legislature to alter the measure or prevent it
37 from appearing on the ballot.

38 SEC. 9. Section 9008 of the Elections Code is amended to read:

1 9008. Every proposed initiative measure, prior to circulation,
2 shall have placed across the top of the petition in 12-point or larger
3 roman boldface type, all of the following:

4 (a) The summary prepared by the ~~Attorney General~~ *Legislative*
5 *Analyst* upon each page of the petition on which signatures are to
6 appear.

7 (b) The summary prepared by the ~~Attorney General~~ *Legislative*
8 *Analyst* upon each section of the petition preceding the text of the
9 measure.

10 (c) The summary prepared by the ~~Attorney General~~ *Legislative*
11 *Analyst* as required by subdivision (b) shall be preceded by the
12 following statement: "Initiative measure to be submitted directly
13 to the voters."

14 SEC. 10. Section 9034 of the Elections Code is amended to
15 read:

16 9034. Upon the certification of an initiative measure for the
17 ballot, the Secretary of State shall transmit copies of the initiative
18 measure, together with the ballot title as prepared by the ~~Attorney~~
19 ~~General~~ *Legislative Analyst* pursuant to Section 9050, to the Senate
20 and Assembly. Each house shall assign the initiative measure to
21 its appropriate committees. The appropriate committees shall hold
22 joint public hearings on the subject of ~~such~~ *the* measure prior to
23 the date of the election at which the measure is to be voted upon.
24 However, no hearing may be held within 30 days prior to the date
25 of the election.

26 Nothing in this section shall be construed as authority for the
27 Legislature to alter the initiative measure or prevent it from
28 appearing on the ballot.

29 SEC. 11. Section 9035 of the Elections Code is amended to
30 read:

31 9035. An initiative measure may be proposed by presenting to
32 the Secretary of State a petition that sets forth the text of the
33 proposed statute or amendment to the Constitution and is certified
34 to have been signed by registered voters equal in number to 5
35 percent in the case of a statute, and 8 percent in the case of an
36 amendment to the Constitution, of the voters for all candidates for
37 Governor at the last gubernatorial election preceding the issuance
38 of the title and summary for the initiative measure by the ~~Attorney~~
39 ~~General~~ *Legislative Analyst*.

1 SEC. 12. Section 9050 of the Elections Code is amended to
2 read:

3 9050. ~~The Attorney General~~ *Legislative Analyst* shall provide
4 and return to the Secretary of State a ballot title for ~~each~~ *a* measure
5 submitted to the voters of the whole state.

6 SEC. 13. Section 9051 of the Elections Code is amended to
7 read:

8 9051. ~~Any~~ *A* person who is interested in ~~any~~ *a* proposed
9 measure may at any time, prior to 150 days before the election at
10 which the measure is to be voted upon, file a copy of it with the
11 Secretary of State, together with a request that a ballot title be
12 prepared for it. This request shall be accompanied by the address
13 of the person or association of persons proposing the measure. The
14 Secretary of State shall immediately transmit a copy of the measure
15 to the ~~Attorney General~~ *Legislative Analyst*. Within 10 days after
16 it is filed, the ~~Attorney General~~ *Legislative Analyst* shall provide
17 and return to the Secretary of State a ballot title for the measure.
18 The ballot title may differ from the legislative or other title of the
19 measure and shall express in not exceeding 100 words the purpose
20 of the measure. In providing the ballot title, the ~~Attorney General~~
21 *Legislative Analyst* shall give a true and impartial statement of the
22 purpose of the measure in such language that the ballot title shall
23 neither be an argument, nor be likely to create prejudice, for or
24 against the proposed measure.

25 SEC. 14. Section 9052 of the Elections Code is amended to
26 read:

27 9052. Immediately upon receipt of the ballot title prepared by
28 the ~~Attorney General~~ *Legislative Analyst*, the Secretary of State
29 shall mail to ~~all the~~ *the* persons who may have requested the
30 preparation of that ballot title, a notice addressed to them at the
31 address accompanying the request, stating that the ~~Attorney~~
32 ~~General~~ *Legislative Analyst* has made and returned the ballot title.
33 The notice shall also contain a copy of the ballot title prepared by
34 the ~~Attorney General~~ *Legislative Analyst*.

35 SEC. 15. Section 9053 of the Elections Code is amended to
36 read:

37 9053. ~~Each~~ *A* measure shall be designated on the ballot by the
38 ballot title certified to the Secretary of State by the ~~Attorney~~
39 ~~General~~ *Legislative Analyst*.

SEC. 16. Section 9054 of the Elections Code is amended to read:

9054. (a) Whenever a city, county, or city and county is required by Section 203 (42 U.S.C. Sec. 1973aa-1a) or Section 4(f)(4) (42 U.S.C. Sec. 1973b(f)(4)) of the federal Voting Rights Act of 1965 to provide a translation of ballot materials in a language other than English, the Secretary of State shall provide a translation of the ballot title prepared pursuant to Section 9050 and of the condensed statement of the ballot title prepared pursuant to Section 13247 in that language to the city, county, or city and county for each a state measure submitted to the voters in a statewide election not later than 68 days prior to that election.

(b) When preparing a translation in a language other than English pursuant to subdivision (a), the Secretary of State shall consult with an advisory body consisting of language experts and nonpartisan organizations that advocate on behalf of, or provide services to, individuals that speak that language.

(c) ~~All translations~~ *Translations* prepared pursuant to this section shall be made available for public examination in the same time and manner as the ballot pamphlet is made available for public examination in accordance with Section 88006 of the Government Code and Section 9092 of this code.

(d) The local elections official shall use ~~that~~ *the* translation of the condensed statement of the ballot title *prepared pursuant to this section* on the sample ballot and the official ballot and may not select or contract with another person to provide translations of the same text.

SEC. 17. Section 9063 of the Elections Code is amended to read:

9063. The summary of a measure given in the press release shall be the official summary that has been prepared by the ~~Attorney General~~ *Legislative Analyst*. The Legislative Counsel Bureau shall prepare the summary on all other measures.

SEC. 18. Section 9086 of the Elections Code is amended to read:

9086. The ballot pamphlet shall contain as to each state measure to be voted upon, the following, in the order set forth in this section:

(a) Upon the top portion of the first page, and not exceeding one-third of the page, shall appear:

1 (1) Identification of the measure by number and title.

2 (2) The official summary prepared by the ~~Attorney General~~
3 *Legislative Analyst*.

4 (3) The total number of votes cast for and against the measure
5 in both the State Senate and Assembly, if the measure was passed
6 by the Legislature.

7 (b) Beginning at the top of the right page shall appear the
8 analysis prepared by the Legislative Analyst, provided that the
9 analysis fits on a single page. If it does not fit on a single page,
10 the analysis shall begin on the lower portion of the first left page
11 and shall continue on subsequent pages until it is completed.

12 (c) Arguments for and against the measure shall be placed on
13 the next left and right pages, respectively, following the final page
14 of the analysis of the Legislative Analyst. The rebuttals shall be
15 placed immediately below the arguments.

16 (d) If no argument against the measure has been submitted, the
17 argument for the measure shall appear on the right page facing the
18 analysis.

19 (e) The complete text of each measure shall appear at the back
20 of the pamphlet. The text of the measure shall contain the
21 provisions of the proposed measure and the existing provisions of
22 law repealed or revised by the measure. The provisions of the
23 proposed measure differing from the existing provisions of law
24 affected shall be distinguished in print, so as to facilitate
25 comparison.

26 (f) The following statement shall be printed at the bottom of
27 each page where arguments appear: "Arguments printed on this
28 page are the opinions of the authors, and have not been checked
29 for accuracy by any official agency."

30 SEC. 19. Section 13247 of the Elections Code is amended to
31 read:

32 13247. (a) The statement of all measures submitted to the
33 voters shall be abbreviated on the ballot. The statement shall
34 contain not more than 75 words of each measure to be voted on,
35 followed by the words, "Yes" and "No." Abbreviation of measures
36 to be voted on throughout the state shall be composed by the
37 ~~Attorney General~~ *Legislative Analyst* and shall be a condensed
38 statement of the ballot title prepared by him or her.

39 (b) For purposes of measures to be voted on throughout the
40 state, the limitation contained in subdivision (a) shall apply to the

1 total number of words used in the condensed statement of the ballot
2 title and the financial impact summary prepared pursuant to Section
3 9087; *of this code* and Section 88003 of the Government Code.

4 SEC. 20. Section 13262 of the Elections Code is amended to
5 read:

6 13262. (a) The ballot shall contain the same material as to
7 candidates and measures, and shall be printed in the same order
8 as provided for paper ballots, and may be arranged in parallel
9 columns on one or more ballot cards as required, except that the
10 column in which the voter marks his or her choices may be at the
11 left of the names of candidates and the designation of measures.

12 (b) If there are a greater number of candidates for an office or
13 for a party nomination for an office than the number whose names
14 can be placed on one pair of facing ballot pages, a series of
15 overlaying pages printed only on the same, single side shall be
16 used, and the ballot shall be clearly marked to indicate that the list
17 of candidates for the office is continued on the following page or
18 pages. If the names of candidates for the office are not required to
19 be rotated, they shall be rotated by groups of candidates in a
20 manner so that the name of each candidate shall appear on each
21 page of the ballot in approximately the same number of precincts
22 as the names of all other candidates.

23 (c) Space shall be provided on the ballot or on a separate write-in
24 ballot to permit voters to write in names not printed on the ballot
25 when authorized by law. The size of the voting square and the
26 spacing of the material may be varied to suit the conditions
27 imposed by the use of ballot cards, provided the size of the type
28 is not reduced below the minimum size requirements set forth in
29 Chapter 2 (commencing with Section 13100).

30 (d) The statement of measure submitted to the voters may be
31 abbreviated if necessary on the ballot, ~~provided that if~~ each and
32 every statement of measures on that ballot is abbreviated.
33 Abbreviation of matters to be voted on throughout the state shall
34 be composed by the ~~Attorney General~~ *Legislative Analyst*.

35 SEC. 21. Section 13281 of the Elections Code is amended to
36 read:

37 13281. The ballot label for measures to be voted on throughout
38 the state shall be composed by the ~~Attorney General~~ *Legislative*
39 *Analyst* and shall be a condensed statement of the ballot title
40 prepared by him or her.

1 SEC. 22. Section 13282 of the Elections Code is amended to
2 read:

3 13282. Whenever the ~~Attorney General~~ *Legislative Analyst*
4 prepares a condensed statement of a ballot title, the ~~Attorney~~
5 ~~General~~ *Legislative Analyst* shall file a copy of the statement with
6 the Secretary of State. The Secretary of State shall make a copy
7 of the statement available for public examination prior to the
8 printing of the statement on any ballot. The public shall be
9 permitted to examine the statement for at least 20 days, and the
10 Secretary of State may consolidate the examination requirement
11 under this section with the public examination requirements set
12 forth in Section 9092. ~~Any~~ A voter may seek a writ of mandate
13 requiring any statement, or portion thereof, to be amended or
14 deleted. The provisions set forth in Section 9092 concerning the
15 issuance of the writ and the nature of the proceedings shall be
16 applicable to this section.

17 SEC. 23. Section 18602 of the Elections Code is amended to
18 read:

19 18602. ~~Any~~ A person working for the proponent or proponents
20 of a statewide initiative or referendum measure who covers or
21 otherwise obscures the summary of the measure prepared by the
22 ~~Attorney General~~ *Legislative Analyst* from the view of a
23 prospective signer is guilty of a misdemeanor.

24 SEC. 24. This bill shall become operative only if Assembly
25 Constitutional Amendment ____ of the 2009–10 Regular Session
26 is approved by voters at a statewide general election.